

DEPARTMENT OF AGRICULTURE**Rural Utilities Service****7 CFR Part 1703**

RIN 0572-AB31

Distance Learning and Telemedicine Loan and Grant Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is amending its regulation concerning the Distance Learning and Telemedicine Grant Program. This final rule promulgates regulations for a new loan program that provides both loans and grants for distance learning and telemedicine projects benefiting rural areas. The regulation is necessary to implement a new loan program mandated by the Federal Agriculture Improvement and Reform Act of 1996. The regulation establishes, among other things, RUS' policy, the method of selecting projects to receive loans and grants and allocating the available funds, and the requirements for submitting an application for financial assistance.

DATES: This regulation is effective on June 13, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Peters, Assistant Administrator, Telecommunications Program, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1590, Room 4056, South Building, Washington, DC 20250-1590. Telephone number (202) 720-9554.

SUPPLEMENTARY INFORMATION:**Classification**

This final rule has been determined to be not significant and, therefore, has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this final rule meets the applicable standards provided in Sec. 3. of the Executive Order.

Regulatory Flexibility Act Certification

On April 16, 1997, RUS published an initial regulatory flexibility analysis as part of the proposed rule (62 FR 18678), and did not receive any comments from the public specifically concerning the analysis. RUS has reviewed the initial regulatory flexibility analysis and determined that it should remain unchanged. In accordance with the

requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the following sets forth the alternatives that would minimize the significant economic impact on small businesses.

Title VII, section 704, of the Federal Agriculture Improvement and Reform Act of 1996 (FAIR Act) (Public Law 104-127) amended Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 by authorizing the Secretary of Agriculture to make loans for distance learning and telemedicine services in rural areas. This final rule amends 7 CFR part 1703 to set forth the rules for this new loan program to be administered by the RUS. The objectives of the final rule are to encourage and improve telemedicine and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals, and rural residents.

The new RUS Distance Learning and Telemedicine loan program will assist in providing modern telecommunication interconnectivity to educational and medical facilities in rural America. Based on the past 4 years of Distance Learning and Telemedicine grant program activity, approximately 704 rural schools, serving hundreds of thousands of rural students, will gain access to improved educational resources through the information superhighway by sharing limited teaching resources and gaining access to libraries, training centers, vocational schools, and other institutions located in metropolitan centers. For telemedicine, approximately 500 rural medical facilities will gain access to improved medical care through linkage with other rural hospitals and major urban medical centers for clinical interactive video consultation, distance training of rural health care providers, management and transport of patient information, and access to medical expertise or library resources.

This final regulation sets forth the rules for the new loan program which will provide supplementary financial assistance for distance learning and telemedicine services in rural areas. The final regulation is needed in order to optimize the use of a limited source of grant and loan funding by setting forth certain criteria which will enable RUS to distribute the amount of financial assistance available among the greatest number of applicants in an economical, efficient, and orderly manner. A regulatory alternative that was considered was not to publish a regulation; however, the desired

regulatory purposes, to improve the access of people residing in rural areas to improved educational, learning, training, and health care services and to achieve the maximum use of funds available, would not be achieved. This would not be achieved since the regulation sets forth the criteria for all to review that will be the basis for RUS determinations and actions.

Entities eligible for assistance under this final rule will be those entities that provide, or will provide, educational or health care services or the facilities needed to provide these services through the use of advanced telecommunications in rural areas. There is no good estimate, at this time, of the number of entities that will be affected by the final rule since the regulatory requirements will apply to only those entities which choose to apply for the financial assistance. However, RUS is estimating between 250 and 300 applications will be submitted annually under this program and of those applicants, between 30 and 50 grants and 100 and 120 loans or combination thereof would be awarded. RUS' existing Distance Learning and Telemedicine Grant Program, since its inception in 1993, has received nearly 900 applications for grants.

The various reporting and compliance requirements contained in this final rule for applicants are necessary to determine such factors as: eligibility; project purposes; compliance with other Federal regulations; project costs and alternative funding sources; project feasibility; and need for educational or telemedicine services. Those reporting requirements imposed on recipients of financial assistance are necessary to ensure proper use of financing for approved purposes. Some of the required reporting documents include information generally maintained by certain types of entities (i.e., patients or students served, financial statements, contracts, audits, etc.). The information collected is in a format designed to minimize the paperwork burden on small businesses and other small entities. The information collected is the minimum needed by RUS to approve financial assistance and monitor the grantee or borrower performance.

The impact on small entities will be limited to the reporting and compliance regulations which were designed to minimize the burden in order to encourage applicants. Even the compliance regulations are designed to only assure RUS that the financial assistance was utilized for Act purposes and also are regulations for already imposed government-wide financial assistance of any kind.

Information Collection and Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 35) RUS requested comments on the information collection incorporated in the proposed rule published on April 16, 1997 (62 FR 18678). The deadline for submitting comments is June 16, 1997. The reporting and recordkeeping requirements contained in the final rule will not be effective until approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 35). Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Director, Program Support and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1522, Room 4034, South Building, Washington, DC 20250-1522.

National Environmental Policy Act Certification

RUS has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Program Affected

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance programs under number 10.855, Distance Learning and Telemedicine Loan and Grant Program. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Intergovernmental Review

This program is subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials.

Unfunded Mandate

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandate Reform Act) for State, local, and tribal governments or the private sector. Thus today's rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandate Reform Act.

Background

Title 7, CFR part 1703, subpart D, was originally published in the **Federal Register** February 26, 1993, (58 FR 11507), and became effective March 29, 1993. The Agriculture Improvement and Reform Act of 1996 (FAIR Act) modified the Distance Learning and Telemedicine (DLT) grant program by creating a loan component. The regulation was modified and published as a final rule in the **Federal Register** on June 27, 1996, (61 FR 33622), to incorporate the changes to the grant program mandated by the FAIR Act, excluding those provisions for administering a loan program since funds appropriated in fiscal year 1996 could only be used for grants. This final rule, while based in part on the existing rule, will (1) Establish criteria for loan and grant eligibility, (2) simplify the determination for the comparative rurality calculation, and (3) place greater emphasis on the need for distance learning or telemedicine services in the scoring criteria.

RUS received 5 comments regarding the proposed rule, which were taken into consideration in preparing the final rule. Overall, respondents generally expressed support for the proposed rule, but made specific comments. A list of the commenters and comment summaries and responses follows:

1. American Institute of Certified Public Accountants, Washington, DC.
2. Associated Communications and Research Services, Oklahoma City, OK.
3. Gershowitz Grant & Evaluation Services, Des Moines, IA.
4. Sequachee Valley Electric Cooperative, South Pittsburgh, TN.
5. State Education Department, University of the State of New York, Albany, NY.

Comment Summary. One organization commented that the proposed rule fails to address the issue of how the DLT program relates to other similar Federally-supported programs and questioned whether the regulations should require explicit coordination with other Federal programs. The commenter believes that such a requirement would strengthen the DLT program and better leverage Federal dollars to improve rural education and health care.

Response. As a leader in providing public/private partnerships for rural telecommunications financing, the RUS is already providing effective solutions to the national mission to build an Information Superhighway. The DLT program has been a resounding success and has begun to make a difference in rural communities. The use of advanced

telecommunications systems and technologies has enabled rural America to begin to realize the benefits of a nationally integrated public network. RUS vigorously pursues avenues for providing information on the benefits of the DLT program to the widest possible number of rural Americans, private organizations, and other Federal agencies. To that end, the DLT homepage has been hyper-linked to other similar Federal programs; thus, making available nationwide access to information on the program. Further, the RUS consults with and exchanges information and expertise with other Federal agencies with information technology grant programs, including the Departments of Commerce, Education, and Health and Human Services. The DLT program complements, not duplicates, these other programs.

Comment Summary (section 1703.102 Definitions). Organizations commented that the term Champion Community requires further clarification. Since it is not a familiar concept, there needs to be guidance as to what a Champion Community is and how a community can obtain this designation.

Response. The Champion Community program stems from the Empowerment Zone/Enterprise Community (EZ/EC) program, a national competition created by this Administration. In essence, the EZ/EC program is about revitalizing low income neighborhoods, supporting grassroots and community-based planning, and creating new partnerships between neighborhoods, local government and the Federal government. In order to qualify, certain economic/demographic requirements have to be met, and the competing cities/towns have to submit innovative and comprehensive strategic plans for revitalization of the targeted areas.

RUS concurs with the recommendation and has reworded this definition for clarity. The definition of Champion Community has been revised to read as follows: "A Champion Community is any community that submitted a valid application to become an Empowerment Zone/Enterprise Community (EZ/EC) area, met the requirements to be designated an EZ/EC area, but was not chosen because their score was not high enough to be selected."

A complete list of Champion Communities can be found on the Internet at the following address: www.exec.gov/communit/champion.html; or by contacting the appropriate RUS Area office in Washington, DC.

Comment Summary (section 1703.108 Maximum grant and loan amounts, and section 1703.133(b) Minimum number of points required for a loan). Concern was expressed that with the effective date of the final rule being so close to the end of the fiscal year and the selection dates, that RUS not wait to publish the maximum grant and loan amounts, and minimum number of points required for a loan. This information may make a difference in determining whether an organization submits an application this fiscal year.

Response. RUS has committed to its customers that it will award the FY 1997 grants and loans in 1997. RUS preferred to provide the public with an opportunity to comment on the proposed rule prior to making such determinations. The maximum grant and loan amounts and minimum number of points required for a loan are published in a notice elsewhere in this separate part of the **Federal Register**.

Comment Summary (section 1703.109 (m) and (n) Coordination with USDA State Directors, Rural Development). One commenter suggested that it would be an advantage to have the paperwork for a grant or loan flow through the State offices for Rural Development. The commenter believes that this structure would put the fact analysis of the application process closer to the project.

Response. RUS requires all applicants to consult with the USDA State Director, Rural Development, to assure conformity with the USDA strategic plan in that State. Applicants are also required to consult with USDA State Directors on the availability of other sources of funding at the state or local level. Further, USDA state and local offices provide information and outreach regarding the program. The program, however, is a nationwide competition which awards the best projects from throughout the country using a consistent and developed expert evaluation process. The RUS ensures that reviewers of applications have technical or managerial expertise in the fields of telecommunications, telemedicine, distance learning and project management and are able to evaluate sufficiently each application fully on its merits. From this process the best of the best are awarded nationwide recognition and support. State and local offices are encouraged to ensure all eligible recipients have the opportunity to compete.

Comment Summary (section 1703.112 Determination of types of financial assistance). One commenter suggested that RUS grant funds be reserved for K-12 school districts only and that loans to educational facilities be restricted to

colleges and universities. Since K-12 school districts are generally prohibited from incurring long-term debt, this recommendation should be strongly considered.

Response. The DLT program is intended primarily to benefit people, not institutions. Colleges and universities are existing sources of advanced education that can be made available to K-12 schools through distance learning without incurring the additional cost of duplicating existing educational sources. To integrate advanced technologies into K-12 classrooms, libraries and other educational settings, RUS encourages the establishment of consortia to help address the effective use of technology in distance learning and telemedicine services. The legislative history of the DLT program evidences a clear intention to use the benefits of technology to bring the advantages of sophisticated educational and medical resources to residents of rural areas. Thus, educational institutions at all levels are encouraged to participate in the program for the express purpose of providing service to rural residents.

Comment Summary (section 1703.112(b) Determination of types of financial assistance). An organization commented that the National School Lunch Program (NSLP)-based system for determining eligibility for financial assistance is flawed since the percentage of lunch-eligible children is only a partial relationship to an applicant's ability to pay for telecommunications technology. The commenter suggested that the additional factor of "proximity to interstate highways" be considered. For instance, in rural areas, a community's location adjacent to an interstate highway results in commercial development, producing significant tax rates. A community that is distant from an interstate may have a higher per-capita income (hence, fewer lunch-eligible children), but a significantly lower tax base, and therefore be less able to purchase technology without external support.

Another commenter also questioned whether this type of measure is as effective as the measures used in other rural economic development programs, e.g., poverty and unemployment levels. The NSLP-system posed an anomaly for one particular school district the commenter studied. They found that the middle school had a rate of 64 percent where the high school had a rate of only 36 percent participation. They questioned if this was a nation-wide trend.

Concern was also expressed over the three categories used to determine

eligibility for type of financial assistance and suggested the thresholds be lowered; thereby allowing for a greater number of applicants eligible for grants only.

An organization also commented that some in school districts believe that persons who could qualify do not apply for a Federally-funded school lunch because they fear the stigma more than the possible benefit. Thus, there could well be built in differences between communities based on mores. The commenter believes that, in gathering NSLP percentages and ratios across the country and permitting local presentation in a particular application, the results may prove far from objective.

In addition, it was suggested that the two gaps, 32-33 percent and 60-61 percent, in the eligibility formula be addressed. The eligibility status of applicants who fall into these gaps is ambiguous.

Response. The RUS' choice of using the school lunch program is consistent with the Federal Communications Commission's (FCC) implementation of the discounts for telecommunications services for all schools (K-12), libraries, and rural health care providers, as required by the Telecommunications Act of 1996. The FCC, like the RUS, uses the school lunch program, in part, because it is an adjusted measure of average financial make-up of a community. The DLT program fits hand-in-glove with the FCC discounts, with the FCC discounts focusing on monthly operating expense and inside wire, and the DLT focusing on end-user equipment. It is an added benefit that the RUS and the FCC both chose the school lunch program.

With regard to employing a measure different from the NSLP such as poverty and unemployment levels, which are usually determined based on county demographics, rural areas that contain high levels of unemployment and extreme levels of people on public assistance are sometimes located in urban counties. The NSLP-based system emphasizes the location of the residences of the users of the project itself, and is a good determinant for measuring the relative well-being of the area. This approach, based on a school districts level of eligibility not level of student participation, highlights an important characteristic of the most needy parts of rural areas that make them different from more affluent areas; financial hardship. This method also offers a particular advantage to RUS in administering this program. The NSLP-based system is objective and easy for applicants to understand and RUS to administer.

The intent of the three categories of applicants is to maximize the benefits of a limited source of grant funding by awarding grants to those applicants serving areas of financial need. Except as cited in § 1703.118, grants will only be awarded to applicants that do not have the resources to repay loans. The 1995 statistics for the NSLP indicate that the percentages to be used to establish eligibility for loans and grants will result in financial assistance in the form of loans for about 75 percent of qualifying applications.

With regard to the two gaps in the percentage ratios used in the eligibility formula, the regulation has been revised to clarify that RUS will round up to the next highest or round down to the next lowest whole number for fraction of percentages at or greater than .5 or less than .5, respectively.

RUS recognizes that the preamble, under "Need for Services" inadvertently indicated that the points available for this scoring criterion have been increased to represent 26 percent of the total possible points available for any project. The percent should have read 24.32 not 26 percent.

Comment Summary (section 1703.112(f) Determination of types of financial assistance). One organization commented that the method for determining the loan-grant ratio is arbitrary. Applicants invest significant time and financial resources in the preparation of proposals that risk receiving only \$5,000 in grant funds. It was recommended that the minimum grant size be raised to a more significant level (e.g., \$50,000), or that objective criteria on ability to pay be published and used to make the determination.

Response. RUS has determined that based upon the great need for these types of projects and the limited amount of available grant funds, the ratios established would allow RUS to fund more projects. Therefore, RUS was not persuaded by the comment and has determined that in this regard the regulation should remain unchanged. RUS intends to get maximum benefit for the dollars invested. Thus, considering the funding limitations for this program, RUS believes the method for determining the loan-grant ratio fairly represents and meets the intent of the program. The purpose of this program is to provide financial assistance, and, such is accomplished through grants, loans, and loan-grant combinations. The proposed method maximizes the delivery of needed funds to rural areas.

Comment Summary (section 1703.117(b)(1) Scoring criteria-Need for services). A comment was made regarding the desire to have quantifiable

measures developed for this analysis area. The commenter believes that from the suggested topics listed in this section, some level of points can be assigned to each of the four (ii, iii, iv, and v) benefit areas.

Response. The intent of RUS is to allow applicants the flexibility to submit any substantiated information that will strengthen the documentation of their application relative to need. Categorizing "needs" may penalize many worthwhile projects since the scope of the "need issue" is so broad. RUS has provided some examples of how applicants' proposed projects will meet the needs of their community, but feels it is necessary that the applicants have the flexibility to document their unique "needs."

RUS solicited from the public suggestions on any objective method that could be used or indications that the subjective method is acceptable. No alternatives, however, were suggested and other methods examined by RUS proved too restrictive. The regulation remains as proposed.

Comment Summary (section 1703.128 Audit requirements). This section of the proposed rule stated that grant and loan recipients must provide an audit in accordance with 7 CFR part 3015, subpart I. One commenter stated that the referenced regulatory section subpart I, which discusses the requirements of the Single Audit Act of 1984, became outdated with the passage of the Single Audit Act Amendments of 1996 (Public Law 104-156). Since the requirements of the Amendments of 1996 are effective for fiscal years beginning after June 30, 1996, it was recommended that RUS update the regulation accordingly.

Response. The final rule has been changed to refer to the audit requirements contained in 7 CFR part 3051, Audits of Institutions of Higher Education and Other Nonprofit Institutions, or its successor, and 7 CFR part 1773, Policy on Audits of RUS Borrowers. Part 3051 applies to not-for-profit organizations (including hospitals, colleges and universities) and state, local and Indian tribal governments. Part 1773 applies to for-profit organizations.

To further clarify that only applicants who have the least ability to repay the full amount of financial assistance provided receive grants or loan/grant combinations, RUS is adding the following sentence to § 1703.112(a)(2): "The applicant's ability to pay for the project. Financial assistance in the form of grants or a combination of loans and grants will be made available only to those otherwise eligible applicants

determined by the Administrator, after review of the financial information furnished by the applicant, to have the least ability to repay the full amount of assistance provided."

RUS also substituted the words *financial assistance for funding* in the heading of § 1703.109 and § 1703.112, and throughout the final rule where appropriate. Since the term *financial assistance* is defined in the final rule, this change was made in the interest of uniformity.

RUS has determined that unless this rule is effective upon publication in the **Federal Register**, it is unlikely that much if any of the Fiscal Year 1997 authorization for the Distance Learning and Telemedicine Loan and Grant Program will be available for use by loan and grant recipients before the authorization lapses.

List of Subjects in 7 CFR Part 1703

Community development, Grant programs—education, Grant programs—health care, Grant programs—housing and community development, Loan programs—education, Loan programs—health care, Loan programs—housing and community development, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, chapter XVII of title 7 of the Code of Federal Regulations is amended as follows:

PART 1703—RURAL DEVELOPMENT

1. The authority citation for part 1703 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.* and 950aaa *et seq.*; Pub. L. 103-354, 108 Stat 3178 (7 U.S.C. 6941 *et seq.*).

2. Subpart D of part 1703 is revised to read as follows:

Subpart D—Distance Learning and Telemedicine Loan and Grant Program

Sec.

- 1703.100 Purpose.
- 1703.101 Policy.
- 1703.102 Definitions.
- 1703.103 Applicant eligibility and allocation of funds.
- 1703.104 Allowable grant and loan funding percentage.
- 1703.105 Grant and loan purposes.
- 1703.106 In-kind matching provisions.
- 1703.107 Ineligible loan and grant purposes.
- 1703.108 Maximum and minimum sizes of a grant and a loan.
- 1703.109 The application for financial assistance.
- 1703.110 Conflict of interest.
- 1703.111 [Reserved]
- 1703.112 Determination of types of financial assistance.
- 1703.113 Application filing dates, location, processing, and public notification.

1703.114—1703.116 [Reserved]
 1703.117 Criteria for scoring applications.
 1703.118 Other application selection provisions.
 1703.119 Appeal provisions.
 1703.120—1703.121 [Reserved]
 1703.122 Further processing of selected applications.
 1703.123—1703.125 [Reserved]
 1703.126 Disbursement of loan and grant funds.
 1703.127 Reporting and oversight requirements.
 1703.128 Audit requirements.
 1703.129 Repayment of loans.
 1703.130—1703.134 [Reserved]
 1703.135 Grant and loan administration.
 1703.136 Changes in project objectives or scope.
 1703.137 Grant and loan termination provisions.
 1703.138—1703.139 [Reserved]
 1703.140 Expedited telecommunications loans.
 Appendix A to Subpart D of Part 1703—Environmental Questionnaire.

Subpart D—Distance Learning and Telemedicine Loan and Grant Program

§ 1703.100 Purpose.

The purpose of this subpart is to encourage and improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals, and rural residents.

§ 1703.101 Policy.

(a) RUS recognizes that the transmission of information is vital to the economic development, education, and health of rural Americans. To further this objective, RUS will award loans and grants under this subpart to distance learning and telemedicine projects that will improve the access of people residing in rural areas to improved educational, learning, training, and health care services. Unless a distinction is made in the various sections of this subpart, all aspects of this subpart will apply to all requests for financial assistance.

(b) In providing assistance under this subpart, RUS will give priority to rural areas that it believes have the greatest need of distance learning and telemedicine services. RUS believes that generally the need is greatest in economically challenged areas and those requiring high costs to serve. This program is consistent with provisions of the 1996 Telecommunications Act (Public Law 104–104, 110 Stat. 56) that designates telecommunications service discounts for schools, libraries, and rural health care providers providing benefits to rural end-users. RUS will

take into consideration the community's involvement in the project and the applicant's ability to leverage grant funds based on its access to capital.

(c) RUS believes that the residents of rural areas and their local institutions which serve them can best determine what are the most appropriate communications or information systems for use in their respective communities. Therefore, in administering this subpart, RUS will not favor or mandate the use of one particular technology over another.

(d) All rural institutions are encouraged to cooperate with each other and with applicants and end users in promoting the program being implemented under this subpart.

(e) RUS staff will make diligent efforts to inform potential applicants in rural areas of the program being implemented under this subpart.

(f) Financial assistance under this subpart will consist of grants or cost of money loans, or both. The Administrator shall determine the portion of the financial assistance provided to a recipient that consists of grants and the portion that consists of cost of money loans so as to result in the maximum feasible repayment to the government of the financial assistance, based on the ability of the recipient to repay and with the full utilization of funds made available to carry out this subpart.

(g) The Administrator may provide a cost of money loan to entities using telemedicine and distance learning services, and, to entities providing or proposing to provide telemedicine service or distance learning service to other persons at rates calculated to ensure that the benefit of the financial assistance is passed through to the other persons.

(h) The Administrator may provide a cost of money loan under this subpart to a borrower of a telecommunications or electric loan under the Rural Electrification Act of 1936, as amended. A borrower receiving a cost of money loan under this subpart shall:

(1) Make the funds provided available, under any terms it so chooses as long as the terms are no more stringent than the terms under which it received the financial assistance, to entities that qualify as distance learning or telemedicine projects satisfying the requirements of this subpart.

(2) Use the funds provided to acquire, install, improve, or extend a system referred to in this subpart.

§ 1703.102 Definitions.

Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

Administrator means the Administrator of the Rural Utilities Service, or designee or successor.

Applicant means an eligible organization which applies for financial assistance under this subpart.

Champion Community means any community that submitted a valid application to become an Empowerment Zone/Enterprise Community (EZ/EC) area, met the requirements to be designated an EZ/EC area, but was not chosen because their score was not high enough to be selected.

Completed application means an application that includes all those items specified in § 1703.109 in form and substance satisfactory to the Administrator.

Comprehensive rural telecommunications plan means the plan submitted by an applicant in accordance with § 1703.109(a).

Computer networks means computer hardware and software, terminals, signal conversion equipment including both modulators and demodulators, or related devices, used to communicate with other computers to process and exchange data through a telecommunication network in which signals are generated, modified, or prepared for transmission, or received, via telecommunications terminal equipment and telecommunications transmission facilities.

Consortium means a combination or group of eligible entities formed to undertake the purposes for which the distance learning and telemedicine financial assistance is provided. Each consortium shall be composed of a minimum of two eligible organizations that meet the requirements of § 1703.103.

Construct means to acquire, construct, extend, improve, or install a facility or system.

Cost of money loan means a loan made under the DLT program bearing interest at a rate equal to the then current cost of money to the government, at the time the feasibility study is completed, for loans of similar maturity not to exceed 10 years.

Data terminal equipment means equipment that converts user information into data signals for transmission, or reconverts the received data signals into user information, and is normally found on the terminal of a circuit and on the premises of the end user.

Distance learning means a telecommunications link to an end user through the use of eligible equipment to:

(1) Provide educational programs, instruction, or information originating in one area, whether rural or not, to students and teachers who are located in rural areas; or

(2) Connect teachers and students, located in one rural area with teachers and students that are located in a different rural area.

DLT borrower means an entity that has outstanding loans under the provisions of the DLT program.

DLT program means the Distance Learning and Telemedicine Loan and Grant Program administered by RUS pursuant to subtitle D, chapter 1, of the Rural Economic Development Act of 1990, as amended (7 U.S.C. 950aaa through 950aaa-4).

Economic useful life as applied to facilities financed under the DLT program means the number of years resulting from dividing 100 percent by the depreciation rate (expressed as a percent) based on Internal Revenue Service depreciation rules or recognized telecommunications industry guidelines.

Eligible equipment means computer hardware and software, audio and visual equipment, computer network components, telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, inside wiring, interactive video equipment, or other facilities that would further telemedicine services or distance learning services. Land, buildings, or building construction are not considered eligible equipment (see § 1703.107(a)(10)).

Eligible organization means an incorporated entity that meets the requirements of § 1703.103.

Empowerment Zone and Enterprise Community (EZ/EC) means any community whose designation as such pursuant to 26 U.S.C. 1391 *et seq.* is in effect at the time RUS agrees to provide financial assistance.

End user means either or both of the following:

(1) Rural elementary or secondary schools or other educational institutions, such as institutions of higher education, vocational and adult training and education centers, libraries, and teacher training centers, and students, teachers and instructors using such rural educational facilities, that participate in a rural distance learning telecommunications program through a project funded under this subpart;

(2) Rural hospitals, primary care centers or facilities, such as medical

centers and clinics, and physicians and staff using such rural medical facilities, that participate in a rural telemedicine program through a project funded under this subpart.

End user site means a facility that is part of a network or telecommunications system that is utilized by end users.

Financial assistance shall consist of grants, cost of money loans, or both, made under the DLT program.

Grant documents means the letter of agreement, including any amendments and supplements thereto, between RUS and the grant recipient.

Grantee means a recipient of a grant from RUS to carry out the purposes of the DLT program.

Hub means control center of a network or telecommunications system.

Instructional programming means educational material, including computer software, which would be used for educational purposes in connection with eligible equipment but does not include salaries, benefits, and overhead of medical or educational personnel.

Interactive video equipment means equipment used to produce and prepare for transmission audio and visual signals from at least two distant locations such that individuals at such locations can orally and visually communicate with each other. Such equipment includes monitors, other display devices, cameras or other recording devices, audio pickup devices, and other related equipment.

Letter of agreement means a legal document executed by RUS and the grantee that contains specific terms, conditions, requirements, and understandings applicable to a particular grant.

Loan documents mean the loan agreement, note, and security agreement, including any amendments and supplements thereto, between RUS and the DLT or Telecommunications/Electric borrower.

Local exchange carrier means a commercial, cooperative or mutual-type association, or public body that is engaged in the provision of telephone exchange service or exchange access.

Matching funds means the applicant's funding contribution for allowable purposes.

National School Lunch Program (NSLP) means the federally assisted meal program established under the National School Lunch Act of 1946 (42 U.S.C. 1751).

Project means an undertaking to provide or improve distance learning or telemedicine by using financial assistance provided under the DLT program.

Project service area means the area in which at least 90 percent of the persons to be served by the project are likely to reside.

Rural community facilities means facilities such as schools, libraries, learning centers, training facilities, hospitals, medical centers, or similar facilities, primarily used by residents of rural areas, that will use a telecommunications, computer network, or related advanced technology system to provide educational or health care benefits primarily to residents of rural areas.

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture formerly known as REA, see 7 CFR 1700.1.

Scope of work means a detailed plan of work that has been approved by the Administrator to be performed by the applicant using financial assistance provided under this subpart.

Secretary means the Secretary of Agriculture.

Technical assistance means:

(1) Assistance in learning to operate equipment or systems; and

(2) Studies, analyses, designs, reports, manuals, guides, literature, or other forms of creating, acquiring, or disseminating information.

Telecommunications carrier means any provider of telecommunications services.

Telecommunications/Electric borrower means an entity that has outstanding electric or telecommunications RUS or Rural Telephone Bank loans or loan guarantees under the provisions of the Act.

Telecommunications terminal equipment means the assembly of telecommunications equipment at the end of a circuit or path of a signal, including but not limited to over the air broadcast, satellite, and microwave, normally located on the premises of the end user, that interfaces with telecommunications transmission facilities, and that is used to modify, convert, encode, or otherwise prepare signals to be transmitted via such telecommunications facilities, or that is used to modify, reconvert, or carry signals received from such facilities, the purpose of which is to accomplish the goal for which the circuit or signal was established.

Telecommunications transmission facilities means facilities that transmit, receive, or carry data between the telecommunications terminal equipment at each end of the telecommunications circuit or path. Such facilities include microwave antennae, relay stations and towers,

other telecommunications antennae, fiber-optic cables and repeaters, coaxial cables, communication satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmissions, and similar items.

Telemedicine means a telecommunications link to an end user through the use of eligible equipment which electronically links medical professionals at separate sites in order to exchange health care information in audio, video, graphic, or other format for the purpose of providing improved health care services primarily to residents of rural areas.

§ 1703.103 Applicant eligibility and allocation of funds.

(a) To be eligible to receive financial assistance under this subpart, the applicant must be organized in one of the following corporate structures:

(1) An incorporated organization, partnership, Indian tribe and tribal organization as defined in 25 U.S.C. 450b (b) and (c), or other legal entity, including a municipal corporation or a private corporation organized on a for-profit or not-for-profit basis, which operates, or will operate, a school, college, university, learning center, training facility, or other educational institution, including a regional educational laboratory, library, hospital, medical center, medical clinic or any rural community facility. A state government, other than a state government entity that operates a rural community facility, is not considered an eligible applicant; or

(2) A consortium, as defined in § 1703.102. A consortium which includes a state government entity is only eligible if the state government entity operates a rural community facility; or

(3) An incorporated organization, partnership, Indian tribe and tribal organization as defined in 25 U.S.C. 450b (b) and (c), or other legal entity which is providing or proposes to provide telemedicine service or distance learning service to other legal entities or consortia at rates calculated to ensure that the economic value and other benefits of the distance learning or telemedicine grant is passed through to such other legal entities or consortia.

(b) At least one of the entities in a partnership or consortium must be eligible individually, and the partnership or consortium must provide written evidence of its legal capacity to contract with RUS. If a partnership or consortium lacks the capacity to contract, each individual entity must contract with RUS on its own behalf.

(c) A borrower of an electric or telecommunications loan under the Act is eligible for a cost of money loan only.

(d) All applications for financial assistance, with the exception of applications requesting a loan and having the minimum required score, will be ranked by the type of application (health care or educational) and total points scored. Grant funds available for medical and educational applicants will be allocated based on the total number of medical and educational applications scoring in the top 50 percent of all applications received for that fiscal year. Applications will be ranked only in one category based on the predominant use of the project.

§ 1703.104 Allowable grant and loan funding percentage.

(a) Financial assistance, except as noted in paragraph (b) of this section, may be used by eligible organizations for distance learning and telemedicine projects to finance up to 70 percent of the cost of allowable purposes outlined in § 1703.105 provided that no financial assistance may exceed the maximum grant or loan amount for the year in which the grant or loan is made.

(b) Cost of money loans requested by an applicant may be used by eligible organizations for distance learning and telemedicine projects to finance up to 90 percent of the cost of allowable loan purposes outlined in § 1703.105, provided that no loan may exceed the maximum loan amount for the year in which the loan is made. Financial assistance applications that do not request a loan and qualify for a loan or combination loan and grant will be funded up to 70 percent of the cost of allowable purposes.

§ 1703.105 Grant and loan purposes.

Grants and loans shall be limited to costs associated with the initial capital assets associated with the project. Grant and loan funds as set out in the last sentence of this section shall not exceed twenty percent (20 percent) of the requested financial assistance. The following are allowable grant and loan purposes:

(a) Acquiring, by lease or purchase, eligible equipment as defined in § 1703.102;

(b) Acquiring instructional programming; and

(c) Providing technical assistance and instruction for using eligible equipment, including any related software; developing instructional programming; providing engineering or environmental studies relating to the establishment or expansion of the phase of the project

that is being financed with the financial assistance.

§ 1703.106 In-kind matching provisions.

(a) In-kind matching, the applicant's minimum funding contribution (specified in § 1703.104) for allowable purposes, is generally required in the form of cash. However, in-kind contributions for the purposes listed in § 1703.105 may be substituted for cash.

(b) In-kind items listed in § 1703.105 must be non-depreciated or new assets with established monetary value. Manufacturers or service providers discounts are not considered in-kind matching.

(c) Financial assistance may be provided for end user sites. Financial assistance may also be provided for hubs located in rural or non-rural areas, if they are necessary to provide distance learning or telemedicine services to rural residents at end user sites.

§ 1703.107 Ineligible loan and grant purposes.

(a) Without limitation, financial assistance under this subpart will not be provided:

(1) To cover the costs of installing or constructing telecommunications transmission facilities, except as provided in paragraph (c) of this section;

(2) To pay for medical equipment except medical equipment primarily used for encoding and decoding data, such as images, for transmission over a telecommunications or computer network;

(3) To pay salaries, wages, or employee benefits to medical or educational personnel;

(4) To pay for the salaries or administrative expenses of the applicant or the project;

(5) To purchase equipment that will be owned by the local exchange carrier or another telecommunications service provider;

(6) To duplicate facilities providing distance learning or telemedicine services in place or to reimburse the applicant or others for costs incurred prior to RUS' receipt of the completed application;

(7) To pay costs of preparing the application package for financial assistance under this program;

(8) For projects whose sole objective is to provide links between teachers and students or medical professionals who are located at the same facility;

(9) For site development and the destruction or alteration of buildings;

(10) For the purchase of land, buildings, or building construction;

(11) For projects located in areas covered by the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*);

(12) For any purpose that the Administrator has not specifically approved; or

(13) Except for leases provided in § 1703.105, to pay the cost of recurring or operating expenses for the project.

(b) Except as otherwise provided in § 1703.140, funds shall not be used to finance a project in part when success of the project is dependent upon the receipt of additional financial assistance under this subpart D or is dependent upon the receipt of other funding that is not assured.

(c) Loans can be used to cover the costs of telecommunications transmission facilities if no telecommunications carrier will install such facilities under the Act or through other financing procedures within a reasonable time period and at a cost to the applicant that does not jeopardize the feasibility of the project, as determined by the Administrator.

§ 1703.108 Maximum and minimum sizes of a grant and a loan.

Applications for grants and loans to be considered under this subpart will be subject to limitations on the proposed amount of financial assistance. The Administrator may establish the maximum amount of financial assistance to be made available to an individual recipient for each fiscal year under this subpart, by publishing notice of the maximum amount in the **Federal Register** not more than 45 days after funds are made available for the fiscal year to carry out this subpart. The minimum size of a grant or loan is \$50,000.

§ 1703.109 The application for financial assistance.

The following items comprise the required material that must be submitted to RUS in support of the application for financial assistance:

(a) Proposed scope of work of the project. The proposed scope of work of the project which includes, at a minimum:

- (1) The specific activities to be performed under the project;
- (2) Who will carry out the activities;
- (3) The time-frames for accomplishing the project objectives and activities; and
- (4) A budget for capital expenditures reflecting the line item costs for both the grant and loan funds and other sources of funds for the project.

(b) Executive summary for the project. The applicant must provide RUS a general project overview, verification of compliance with the general

requirements of this subpart, and documentation of eligibility. The executive summary shall contain the following 9 categories:

(1) A description of why the project is needed.

(2) An explanation of how the applicant will address the need cited in paragraph (b)(1) of this section, why the applicant requires financial assistance and types of educational or medical services to be offered by the project, and the benefits to the rural residents.

(3) A description of the applicant, documenting eligibility with § 1703.103.

(4) An explanation of the total cost of the project including a breakdown of the RUS financial assistance required and the source of funding for the remainder of the project.

(5) A statement that the project is either a distance learning or telemedicine facility as defined in § 1703.102. If the project provides both distance learning and telemedicine services, the applicant must identify the predominant use of the system.

(6) A general overview of the telecommunications system to be developed, including the types of equipment, technologies, and facilities used.

(7) A description of the participating hubs and end user sites and the number of rural residents which will be served by the proposed project at each end user site.

(8) The applicant must certify that facilities using financial assistance do not duplicate adequate established telemedicine services or distance learning services. RUS will make the final determination whether or not financial assistance requested by an applicant will duplicate such adequate established services.

(9) A listing of the location of each end user site (city, town, village, borough or rural area plus the state) discussing how the appropriate National School Lunch Program eligibility percentage was determined in accordance with § 1703.112. These percentages may be obtained from the State or local organization that administers the program and must be certified by that organization as being correct.

(c) Financial information. The applicant must provide financial information to support the need for the financial assistance requested for the project. It must show its financial capacity to carry out the proposed work, and show project feasibility. For educational institutions participating in a project application (including all members of a consortium), the financial data must reflect revenue and expense

reports and balance sheet reports, reflecting net worth, for the most recent annual reporting period preceding the date of the application. For medical institutions participating in a project application (including all members of a consortium), the financial data must include income statement and balance sheet reports, reflecting net worth, for the most recent completed fiscal year preceding the date of the application. When the applicant is a partnership, company, corporation or other entity, current balance sheets, reflecting net worth, are needed from each of the entities that has at least a 20 percent interest in such partnership, company, corporation or other entity. When the applicant is a consortium, a current balance sheet, reflecting net worth, is needed from each member of the consortium and from each of the entities that has at least a 20 percent interest in such member of the consortium.

(1) Applicants must include sufficient pro-forma financial data which adequately reflects the financial capability of project participants and the project as a whole to continue a sustainable project for a minimum of 10 years after completion of the project. This documentation should include sources of sufficient income or revenues to pay operating expenses including telecommunications access and toll charges, system maintenance, salaries, training, and any other general operating expenses, and provide for replacement of depreciable items.

(2) For applicants requesting a loan and applicants who qualify for a loan or a combination loan/grant in accordance with § 1703.112, the documentation must demonstrate the ability to repay the loan. RUS will consider a secured loan guarantee by a third party as evidence of the ability of the applicant to repay a loan.

(3) For each hub and end user site, the applicant must identify and provide reasonable evidence of each source of revenue. If the projection relies on cost sharing arrangements among hub and end user sites, the applicant must provide evidence of agreements made among project participants.

(4) For applicants eligible under § 1703.103(a)(3), an explanation of the economic analysis justifying the rate structure to ensure that the benefit, including cost saving, of the financial assistance is passed through to the other persons receiving telemedicine or distance learning services.

(5) For RUS telecommunications and electric borrowers applying for a cost of money loan, the only financial information required in support of that application is the respective most recent

Annual Report to RUS (i.e. RUS Form 479, Form 7, or Form 12).

(d) A statement of experience. The applicant must provide a written narrative (not exceeding three single spaced pages) describing its demonstrated capability and experience, if any, in operating an educational or health care endeavor and any project similar to the proposed project. Experience in a similar project is desirable but not required.

(e) Funding commitment from other sources. The applicant must provide evidence, in form and substance satisfactory to the Administrator, that all funds in addition to funds provided under this subpart are committed and will be used for the proposed project.

(f) Telecommunications System Plan. A Telecommunications System Plan, consisting of the following, is required. The items in paragraphs (f) (4) and (5) of this section are needed only when the applicant is requesting loan funds for telecommunications transmission facilities:

(1) The capabilities of the telecommunications terminal equipment, including a description of the specific equipment which will be used to deliver the proposed service. The applicant must document discussions with various technical sources which could include consultants, engineers, product vendors, or internal technical experts, provide detailed cost estimates for operating and maintaining the end user equipment and provide evidence that alternative equipment and technologies were evaluated.

(2) A listing of the proposed purchases or leases of telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, interactive video equipment, computer hardware and software systems, and components that process data for transmission via telecommunications, computer network components, communication satellite ground station equipment, or any other elements of the telecommunications system designed to further the purposes of this subpart, that the applicant intends to build or fund using RUS financial assistance.

(3) A description of the consultations with the appropriate telecommunications carriers (including other interexchange carriers, cable television operators, enhanced service providers, providers of satellite services and telecommunications equipment manufacturers and distributors) and the anticipated role of such providers in the proposed telecommunications system.

(4) Results of discussion with local exchange carriers serving the project area addressing concerns in § 1703.107 (c).

(5) The capabilities of the telecommunications transmission facilities, including bandwidth, networking topology, switching, multiplexing, standards and protocols for intra-networking and open systems architecture (the ability to effectively communicate with other networks). In addition, the applicant must explain the manner in which the transmission facilities will deliver the proposed services. For example, for medical diagnostics, the applicant might indicate whether or not a guest or other diagnosticians can join the network from locations off the network. For educational services, indicate whether or not all hub and end-user sites are able to simultaneously hear in real-time and see each other or the instructional material in real-time. The applicant must include detailed cost estimates for operating and maintaining the network, and include evidence that alternative delivery methods and systems were evaluated.

(g) Proposed evaluation methodology. The applicant must provide a proposed method of evaluating the success of the project in meeting the objectives of the program as set forth in § 1703.100 and § 1703.101 and the proposed scope of work.

(h) Compliance with other Federal statutes and regulations. The applicant is required to submit evidence that it is in compliance with other applicable Federal requirements including, but not limited to the following:

(1) Equal opportunity and nondiscrimination requirements;

(2) Architectural barriers;

(3) Flood hazard area precautions;

(4) Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs;

(5) Drug-free workplace;

(6) "Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transaction" (See 7 CFR 3017.510);

(7) Intergovernmental review of Federal programs if clearing house(s) exists for the state(s) in which project is located; and

(8) Restrictions on lobbying. For an application for financial assistance in excess of \$100,000, a certification statement, "Certification Regarding Lobbying" is required. If the applicant is engaged in lobbying activities, the applicant must submit a completed disclosure form, "Disclosure of

Lobbying Activities" (see 7 CFR part 3018).

(i) (1) Environmental impact and historic preservation. The applicant must provide details of the project's impact on the environment and historic preservation. Grants and loans made under this part are subject to 7 CFR part 1794 which contains the policies and procedures of RUS for implementing a variety of Federal statutes, regulations and executive orders generally pertaining to protection of the quality of the human environment that are listed in 7 CFR 1794.1. The application shall contain a separate section entitled "Environmental Impact of the Project."

(2) Environmental information. An "Environmental Questionnaire," appendix A to this subpart, may be used by applicants to assist in complying with the requirements of this section. Copies of the Environmental Questionnaire are available from RUS.

(j) A completed Standard Form 424, "Application for Federal Assistance," along with a board of directors resolution authorizing the request for financial assistance.

(k) Evidence of the applicant's legal existence and authority to enter into a grant or loan agreement with RUS and perform activities proposed under the grant or loan application.

(l) Evidence that the applicant is not delinquent on any obligation owed to the government (7 CFR parts 3016 and 3019).

(m) Evidence that the applicant has consulted with the USDA State Director, Rural Development, concerning the availability of other sources of funding available at the state or local level.

(n) Evidence from the USDA State Director, Rural Development, that the application conforms with the State strategic plan as prepared under section 381D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*). The applicant should indicate if such a plan does not exist.

(o) A depreciation schedule covering all assets of the project. Those assets for which financial assistance is being requested should be clearly indicated.

(p) Supplemental information. The applicant should provide any additional information it considers relevant to the project and likely to be helpful in determining the extent to which the proposed project would further the purposes of this subpart.

(q) Additional information requested by RUS. The applicant must provide any additional information the Administrator may consider relevant to the application and necessary to adequately evaluate the application. RUS may also request modifications or

changes, including changes in the amount of funds requested, in any proposal described in an application submitted under this subpart.

§ 1703.110 Conflict of interest.

At any time prior to the disbursement of a grant or loan awarded under this subpart, the Administrator may disqualify an otherwise eligible project whenever, in the judgment of the Administrator, the project would create a conflict of interest or the appearance of a conflict of interest. RUS will notify the applicant in writing of the Administrator's intention to disqualify the project under this section and set forth the basis for the Administrator's determination that a conflict of interest or appearance exists. Thereafter, the applicant will have 30 days from the date of such notice to file a written response with the Administrator. If the Administrator receives the applicant's response within the 30-day period, the Administrator will consider the information contained therein before making a final determination whether to disqualify the project. RUS will promptly notify the applicant of the final determination whether a conflict of interest or appearance of a conflict exists. If the determination is affirmative, the notice will also advise the applicant whether the project is disqualified or conditionally disqualified. If the project is conditionally disqualified, the notice will state under what circumstances the project may continue to be eligible for assistance under this subpart. The Administrator's decision under this section will be final.

§ 1703.111 [Reserved]

§ 1703.112 Determination of types of financial assistance.

(a) To maximize the use of available funding and to obtain the maximum repayment to the government, RUS will determine if an applicant will be awarded a grant, loan or a combination of both loans and grants based upon the following:

(1) The percentage of students eligible to participate in the National School Lunch Program in the areas where the end user sites comprising the project are located; and

(2) The applicant's ability to pay for the project. Financial assistance in the form of grants or a combination of loans and grants will be made available only to those otherwise eligible applicants determined by the Administrator, after review of the financial information furnished by the applicant, to have the least ability to repay the full amount of assistance provided.

(b) The methodology contained in this section will be used to evaluate the relative financial need of the applicant, community, and project. All applicants are required to provide the applicable percentage of students eligible to participate in the National School Lunch Program for each end user site which must be certified as being correct by the appropriate State or local organization administering the program. The type of financial assistance will be determined as follows:

(1) If the end user site(s) for the project have, or are located in school districts which have, from 0–32 percent student eligibility in the National School Lunch Program, the project qualifies for a loan.

(2) If the end user site(s) for the project have, or are located in school districts which have, from 33–60 percent student eligibility in the National School Lunch Program, the project qualifies for a loan and may be eligible for some grant funds.

(3) If the end user site(s) for the project have, or are located in school districts which have, from 61–100 percent student eligibility in the National School Lunch Program, the project qualifies for a grant. The applicant may indicate its desire to be considered for a loan or a combination loan and grant if denied a grant provided the financial data required in § 1703.109(c) indicates the ability to repay a loan. Grant applicants should indicate if they desire to be considered for a loan.

(4) Percentage ratios will be rounded up to the next highest or rounded down to the next lowest whole number for fraction of percentages at or greater than .5 or less than .5, respectively.

(c) The following guidelines will be used to determine the applicable National School Lunch Program eligibility percent for a particular end user site:

(1) Public schools or nonprofit private schools of high school grade or under will use the actual eligibility percentage for that particular school.

(2) Schools and institutions of higher learning ineligible to participate in the National School Lunch Program and non-school end user sites (medical facilities, libraries, etc.) will use the eligibility percentage of all students in the school district where the end user will be located.

(d) If all the end user sites in a proposed network or system fall within the same percentile category, the project will be eligible for the type of financial assistance set forth in paragraph (b) of this section.

(e) If end user sites fall within different percentile categories the eligibility percentages associated with each end user site will be averaged to determine the percentile category and type of financial assistance the applicant is eligible for. For purposes of averaging, if a hub is also utilized as an end user site, the hub will be considered as an end user site.

(f) For those applicants which qualify for a combination loan/grant, the Administrator will determine the amount of the grant the applicant will receive, if any, based upon analysis of the financial condition of the applicant as reflected by the information submitted under § 1703.109(c). The minimum amount of a grant will be \$5,000.

(g) RUS will submit a letter to those applicants being offered financial assistance in the form of a loan, or a combination of a loan and grant, outlining terms and conditions of such assistance. The applicant will have 15 days from the date of the letter to accept the terms and conditions in the letter. If the applicant fails to respond within this time the Administrator may withdraw the offer of financial assistance and the applicant will have no right to appeal the withdrawal.

§ 1703.113 Application filing dates, location, processing, and public notification.

(a) Applications for financial assistance under this subpart shall be submitted to the Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1590, Washington, DC 20250–1590. Applications should be marked "Attention: Assistant Administrator, Telecommunications Program".

(b) Applications for loans can be submitted at any time. RUS will review each application for completeness in accordance with § 1703.109, and notify the applicant, within 15 working days of the receipt of the application, of the results of this review, citing any information which is incomplete. To be considered for loan funds during the fiscal year (FY) that the application is submitted, the applicant must submit any information needed to complete the application by June 30. If this review concludes that a loan is feasible and the application receives the required minimum number of points as determined using the scoring criteria in § 1703.117, the Administrator will immediately process the application. The minimum number of points required for a loan application to be immediately processed will be

published in the **Federal Register** each fiscal year.

(c) Applications requesting grant funds must be submitted to RUS to arrive not later than August 12, 1997 if the applications are to be considered during FY 1997. Beyond FY 1997, all applications requesting grant funds must be submitted to RUS to arrive not later than April 30 if the applications are to be considered during the fiscal year the application is submitted. It is suggested that applications be submitted prior to the above deadline to ensure they can be reviewed and considered complete by the deadline. RUS will review each application for completeness in accordance with § 1703.109, and notify the applicant, within 15 working days of the receipt of the application, of the results of this review, citing any information which is incomplete. To be considered for grant funds, the applicant must submit the information to complete the application by August 12, 1997 in FY 97 and April 30 beyond FY 97. If the applicant fails to submit such information by the appropriate deadline, the application will be considered during the next fiscal year.

(d) The Administrator will publish, at the end of each fiscal year, a notice in the **Federal Register** of all completed applications receiving financial assistance under this subpart. The Administrator will also make those applications available for public inspection at the U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC. For purposes of this paragraph, applications include any information not protected by the Privacy Act of 1974, 5 U.S.C. 552a, and any other information that has not been designated as proprietary information by the applicant.

(e) All applicants must submit an original and two copies of a completed application. A grant applicant must also submit a copy of the application to the State government point of contact, if one has been designated for the state, at the same time it submits an application to RUS. All applications must include the information described in § 1703.109.

§§ 1703.114—1703.116 [Reserved]

§ 1703.117 Criteria for scoring applications.

(a) *Criteria.* The criteria in this section will be used by RUS to score applications that have been determined to be in compliance with the requirements of this subpart. Applicants shall address the following criteria:

(1) The need for services and benefits derived from services;

- (2) The comparative rurality of the proposed project service area;
- (3) The ability to leverage resources;
- (4) Innovativeness of design;
- (5) Connectivity with outside networks;
- (6) The cost effectiveness of the design;
- (7) Project participation in EZ/EC (Empowerment Zone and Enterprise Communities); and
- (8) Project participation in Champion communities.

(b) *Scoring criteria*—(1) *The need for services and benefits derived from services.* (i) This criterion will be used by RUS to score applications based on the documentation submitted in support of the application for financial assistance that reflects the need for services and benefits derived from the services proposed by the project. Up to 45 points can be assigned to this criterion.

(ii) RUS will consider the extent of the applicant's documentation explaining the economic, education or health care challenges facing the community; the applicants proposed plan to address these challenges; how the financial assistance can help; and why the applicant cannot complete the project without a loan or grant. The Administrator will also consider any support by recognized experts in the related educational or health care field, any documentation substantiating the educational or health care underserved nature of the applicant's proposed service area, and any justification for specific educational or medical services which are needed and will provide direct benefits to rural residents. Some examples of benefits to be provided by the project include, but are not limited to:

- (A) Improved education opportunities for a specified number of students;
 - (B) Travel time and money saved by telemedicine diagnosis;
 - (C) Number of doctors retained in rural areas;
 - (D) Number of additional students electing to attend higher education institutions;
 - (E) Lives saved due to prompt medical diagnosis and treatment;
 - (F) New education courses offered, including college level courses;
 - (G) Expanded use of educational facilities such as night training;
 - (H) Number of patients receiving telemedicine diagnosis;
 - (I) Provision of training, information resources, library assets, adult education, lifetime learning, community use of technology, jobs, connection to region, nation, and world.
- (iii) That rural residents, and other beneficiaries, desire the educational or

medical services to be provided by the project (a strong indication of need is the willingness of local end users or institutions to pay, to the extent possible, for proposed services).

(iv) The project's development and support based on input from the local residents and institutions.

(v) The extent to which the application is consistent with the State strategic plan prepared by the Rural Development State Director of the United States Department of Agriculture.

(2) *The comparative rurality of the proposed project service area.* (i) The methodology contained in this section is used to evaluate the relative rurality (i.e. population) of service areas for various projects. Under this system, the end user sites and hubs (as defined in § 1703.102) contained within the proposed project service area are identified. Then, those locations are given a score according to the population of the area where the end user sites are located. Up to 35 points can be assigned to this criterion.

(ii) The following definitions are used in the evaluation of rurality:

(A) Exceptionally Rural Area means any area of the United States not included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 5,000 inhabitants.

(B) Rural Area means any area of the United States included within the boundaries of any incorporated or unincorporated city, village, or borough having a population over 5,000 and not in excess of 10,000 inhabitants.

(C) Urban Area means any area of the United States included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 10,000 inhabitants.

(iii) The applicant will receive points as follows:

(A) There are a total of 35 possible points for this criterion. The maximum number of points each end user site can receive is determined by dividing the total possible points for this criterion, 35, by the total number of end user sites. If a hub is utilized as an end user site, the hub will be considered as an end user site.

(B) If the end user site is located in an Exceptionally Rural Area, it will receive the maximum number of points each end user site can receive. If the end user site is located in a Mid-Rural Area, it will receive 50 percent of the maximum number of points each end user site can receive. If the end user site is located in an Urban Area, it will receive 0 percent of the maximum

number of points each end user site can receive.

(C) The total points for each end user site will be added to reach a final point total for the project.

(D) An application must receive a minimum of 18 points under this criterion to be eligible for any financial assistance.

(3) *The ability to leverage resources.*

(i) This section is used to evaluate the ability of the applicant to contribute financially to the project and to secure other non-Federal sources of funding. Documentation submitted in support of the application for financial assistance should reflect any additional financial support for the project from non-Federal sources above the applicant's required percent matching of the RUS financial assistance as set forth in § 1703.104. The applicant must include evidence from authorized representatives of the sources that the funds are available and will be used for the proposed project—up to 35 points.

(ii) The applicant will receive points as follows:

(A) Matching for allowable financial assistance purposes greater than 30 percent, but less than or equal to 50 percent of the RUS financial assistance—10 points.

(B) Matching for allowable financial assistance purposes greater than 50 percent, but less than or equal to 100 percent of the RUS financial assistance—20 points.

(C) Matching for allowable financial assistance purposes greater than 100 percent, but less than or equal to 150 percent of the RUS financial assistance—25 points.

(D) Matching for allowable financial assistance purposes greater than 150 percent, but less than or equal to 200 percent of the RUS financial assistance—30 points.

(E) Matching for allowable financial assistance purposes greater than 200 percent of the RUS financial assistance—35 points.

(4) *Innovativeness of project.* This criterion will be used by RUS to score applications based on the documentation submitted in support of the application for financial assistance that reflects the innovative nature of the project. The applicant should explain the extent to which, if any, the project is an innovative approach to either delivering or using telecommunications to address the needs of the community, and how the project differs in approach from the typical educational or health care application of technology. Up to 20 points can be assigned to this criterion.

(5) *Connectivity with outside networks.* (i) This criterion will be used

by RUS to score applications based on the documentation submitted in support of the application for financial assistance that reflects the extent to which the proposed project can be connected to other educational or health care networks. Up to 20 points can be assigned to this criterion.

(ii) Consideration will be given to the extent that the proposed project will interconnect with other existing networks at the regional, statewide, national or international levels. RUS believes that to the extent possible, educational and health care networks should be designed to connect to the widest practicable number of other networks that expand the capabilities of the proposed project, thereby affording rural residents opportunities that may not be available at the local level. The ability to connect to the internet alone can not be used as the sole basis to fulfill this criteria.

(iii) Consideration will also be given to the extent that facilities constructed with federal financial assistance, particularly financial assistance under this chapter provided to entities other than the applicant, will be utilized to extend or enhance the benefits of the proposed project.

(6) *Cost effective design.* (i) This criterion will be used by RUS to score applications based on the documentation submitted in support of the application for financial assistance that reflects the cost efficiency of the project design. Up to 15 points can be assigned to this criterion.

(ii) Consideration will be given to the extent that the proposed technology or technologies for delivering the proposed educational or health care services for the project service area are the most cost effective for the project proposed. The application must contain information necessary for RUS to use accepted analytical and financial methodologies to determine whether the applicant is proposing the most cost-effective option. RUS will consider the applicant's documentation comparing various systems and technologies, whether the applicant's system is the most cost-effective system, and whether buying or leasing specific equipment is more cost effective. Points will be deducted from the scores of the applications that fail to utilize existing telecommunications facilities that could provide the transmission path for the needed services.

(7) *Project participation in EZ/ECs.* This criterion will be used by RUS to score applications based on the documentation submitted in support of the application for financial assistance that reflects the designation of

Empowerment Zones and Enterprise Communities (EZ/EC) included as beneficiaries of the proposed project. Ten (10) points will be assigned if at least one end user site is located in an EZ/EC.

(8) *Project participation in Champion Communities.* This criterion will be used by RUS to score applications based on the documentation submitted in support of the application for financial assistance that reflects the designation of Champion Communities included as beneficiaries of the proposed project. Five (5) points will be assigned if at least one end user site is located in a Champion Community.

§ 1703.118 Other application selection provisions.

(a) *Selection.* Applications will be selected for financial assistance based on scores, availability of funds, and the provisions of this section. RUS will make determinations regarding the reasonableness of all numbers; dollar levels; rates; the nature and design of the project; cost; location; and other characteristics of the application and the proposed project to determine the number of points assigned to a grant application for all selection criteria. Joint applications submitted by multiple applicants as set forth in § 1703.113 will be rated as a single application.

(b) Regardless of the number of points an application receives in accordance with § 1703.117 or the feasibility of the proposed project, the Administrator may, based on a review of the applications in accordance with the requirements of this subpart:

(1) Limit the number of applications selected for projects located in any one state during a fiscal year;

(2) Limit the number of selected applications for a particular project;

(3) Select an application receiving fewer points than another higher scoring application if there are insufficient funds during a particular funding period to select the higher scoring application; provided, however, the Administrator may ask the applicant of the higher scoring application if it desires to reduce the amount of its application to the amount of funds available if, notwithstanding the lower grant amount, the Administrator determines the project is financially feasible in accordance with § 1703.109(d)(1) at the lower amount;

(4) Award a grant to an applicant whose application carries out the priorities listed in the scoring criteria in such a way to make the application unique; or

(5) Award a grant to an applicant which would normally qualify for other

financial assistance, if the project achieves one or more of the following:

(i) Utilizes cutting edge technology to provide a solution to a unique problem;

(ii) Provides services otherwise not possible in an extremely isolated geographic area; or

(iii) Provides inordinate quantifiable benefit to rural communities relative to the amount of financial assistance requested.

(c) RUS will not approve an application if RUS determines that:

(1) The applicant's proposal does not indicate financial feasibility or is not sustainable in accordance with the requirements of § 1703.109(d)(1);

(2) The applicant's proposal indicates technical flaws, which, in the opinion of RUS, would prevent successful implementation, operation, or sustainability of the proposed project; or

(3) Any other aspect of the applicant's proposal fails to adequately address any requirements of this subpart or contains inadequacies which would, in the opinion of RUS, undermine the ability of the project to meet the general purpose of this subpart or comply with policies of the DLT program set forth in § 1703.101.

(d) RUS may reduce the amount of the applicant's grant award based on insufficient program funding for the fiscal year in which the project is reviewed, and offer the applicant loan funds in addition to the grant funds, if RUS determines that, notwithstanding a lower grant award, the project will show financial feasibility in accordance with § 1703.109(d)(1), and continues to meet all other provisions of this subpart. RUS will discuss its findings informally with the applicant and make every effort to reach a mutually acceptable agreement with the applicant. Any discussions with the applicant and agreements made with regard to a reduced grant amount will be confirmed in writing, and these actions shall be deemed to have met the notification requirements set forth in paragraph (e) of this section.

(e) RUS will provide the applicant an explanation of any determinations made with regard to paragraphs (c)(1) through (c)(3) of this section prior to making final project selections for the year. The applicant will be provided 15 days from the date of RUS' letter to respond, provide clarification, or make any adjustments or corrections to the project. If, in the opinion of the Administrator, the applicant fails to adequately respond to any determinations or other findings made by the Administrator, the project will not be funded, and the applicant will be notified of this determination. If the

applicant does not agree with this finding an appeal may be filed in accordance with § 1703.119.

§ 1703.119 Appeal provisions.

All qualifying applications under this subpart will be scored based on criteria in section § 1703.117. A determination will be made by RUS based on the highest ranking applications and the amount of funds available for grants and loans. All applicants will be notified in writing of the score each application receives, and included in this notification will be a tentative minimum required score to receive financial assistance. If the score received by the applicant could result in the denial of its application, or if its score, while apparently sufficient to qualify for financial assistance, may be surpassed by the score awarded to a competing application after appeal, the applicant may appeal its numerical scoring. Any appeal must be based on inaccurate scoring of the application by RUS and no new information or data that was not included in the original application will be considered. The appeal must be made in writing within 10 days after the applicant is notified of the scoring results. Appeals shall be submitted to the Administrator, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1590, Washington, DC 20250-1590. Thereafter, the Administrator will review the original scoring to determine whether to sustain, reverse or modify the original scoring determination. Final determinations will be made after consideration of all appeals. The Administrator's determination will be final. A copy of the Administrator's decision will be furnished promptly to the applicant. An appeal based solely upon the type of financial assistance the applicant qualifies for will not be considered.

§§ 1703.120—1703.121 [Reserved]

§ 1703.122 Further processing of selected applications.

(a) During the period between the submission of the application and the execution of implementing documents, the applicant must inform RUS if the project is no longer viable or the applicant no longer desires financial assistance for the project. If the applicant so informs RUS, the selection will be rescinded and written notice to that effect shall be sent promptly to the applicant.

(b) If an application has been selected and the nature of the project changes, the applicant may be required to submit a new application to RUS for consideration depending on the degree

of change. A new application will be subject to review in accordance with this subpart. The selection may not be transferred to another project.

(c) If state or local governments raise objections to a proposed project under the intergovernmental review process that are not resolved within 3 months of the Administrator's selection of the application, the Administrator may rescind the selection and written notice to that effect will be sent promptly to the applicant.

(d) Recipients of financial assistance will be required to submit RUS Form 479-A, "Distance Learning and Telemedicine Technical Questionnaire."

(e) After an applicant selected for financial assistance has submitted such additional information, if any, RUS determines is necessary for completing the financial assistance documents, RUS will send the documents to the applicant to execute and return to RUS.

(1) The financial assistance documents will include, among other things, a letter of agreement for grants; loan documents, including third party guarantees, for loans; or any other legal documents the Administrator deems appropriate, including suggested forms of certifications and legal opinions.

(2) The letter of agreement and the loan documents will include, among other things, conditions on the release or advance of funds and include at a minimum, a project description, approved purposes, the maximum amount of the financial assistance, supplemental funds, required of the project and certain agreements or commitments the applicant may have proposed in its application. In addition, the loan documents may contain covenants and conditions the Administrator deems necessary or desirable to provide assurance that the loan will be repaid and the purposes of the loan will be accomplished.

(3) The recipient of a loan will be required to execute a security instrument in form and substance satisfactory to RUS.

(4) DLT borrowers must, before receiving any advances of loan funds, provide security that is adequate, in the opinion of RUS, to assure repayment, within the time agreed, of all loans to the borrower under the DLT program. This assurance will generally be provided by a first lien upon all of the borrower's assets or such portion thereof as shall be satisfactory to RUS. RUS may consider the projected revenues from the facilities subject to the lien.

(5) Security may also be provided by third-party guarantees, letters of credit,

pledges of revenue or other forms of security satisfactory to RUS.

(6) The security instrument and other loan documents required by RUS in connection with loans under the DLT program shall contain such pledges, covenants, and other provisions as may, in the opinion of RUS, be necessary or desirable to secure repayment of the loan.

(7) If the facilities financed do not constitute a complete operating system, the DLT borrower shall provide evidence demonstrating, to RUS' satisfaction, that the borrower has sufficient contractual or other arrangements to assure that the facilities financed will provide adequate and efficient service.

(f) Until the letter of agreement or loan documents have been executed and delivered by RUS and by the applicant, RUS reserves the right to require any changes in the project or legal documents covering the project to protect the integrity of the program and the interests of the government.

(g) If the applicant fails to submit, within 120 calendar days from the date of RUS' selection of an application, all of the information that RUS determines to be necessary to prepare legal documents and satisfy other requirements of this subpart, RUS may rescind the selection of the application and written notice of such rescission will be sent promptly to the applicant.

§§ 1703.123–1703.125 [Reserved]

§ 1703.126 Disbursement of loan and grant funds.

(a) For financial assistance of \$100,000 or greater, prior to the disbursement of funds, the recipient, if it is not a unit of government, will provide evidence of fidelity bond coverage as required by 7 CFR part 3019.

(b) Financial assistance will be disbursed to recipients on a reimbursement basis, or with unpaid invoices for the eligible purposes set forth in this subpart, by the following process:

(1) An SF 270, "Request for Advance or Reimbursement," will be completed by the recipient and submitted to RUS not more frequently than once a month;

(2) After receipt of a properly completed SF 270, RUS will review for accuracy and if the form is satisfactory will schedule payment. Payment will ordinarily be made within 30 days; and

(3) For financial assistance approved during and subsequent to FY 1997, funds will be advanced in accordance to 7 CFR 1744.69.

(c) The recipient's share in the cost of the project will be disbursed in advance

of financial assistance, or if the recipient agrees, on a pro rata distribution basis with financial assistance during the disbursement period. Recipient will not be permitted to provide its contribution at the end of the project.

(d) Concurrent grant and loan funds will be disbursed on a pro rata distribution basis.

§ 1703.127 Reporting and oversight requirements.

(a) A project performance activity report will be required of all recipients on an annual basis until the project is complete and the funds are disbursed by the applicant.

(b) A final project performance report will be required. It must provide an evaluation of the success of the project in meeting the objectives of the program. The final report may serve as the last annual report.

(c) RUS will monitor recipients as it determines necessary to assure that projects are completed in accordance with the approved scope of work and that funds are expended for approved purposes.

(d) Recipients shall diligently monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Recipients are to submit an original and one copy of all reports submitted to RUS. The project performance reports shall include, but not be limited to, the following:

(1) A comparison of actual accomplishments to the objectives established for that period;

(2) A description of any problems, delays, or adverse conditions which have occurred, or are anticipated, and which may affect the attainment of overall project objectives, prevent the meeting of time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(3) Objectives and timetable established for the next reporting period.

§ 1703.128 Audit requirements.

(a) The grant recipients and DLT borrowers will provide an audit report in accordance with either:

(1) 7 CFR part 3051, Audits of Institutions of Higher Education and Other Nonprofit Institutions, or its successor; or

(2) 7 CFR part 1773, Policy on Audits of RUS Borrowers.

(b) 7 CFR part 3051 applies to not-for-profit organizations (including

hospitals, colleges and universities) and state, local, and Indian tribal governments. 7 CFR part 1773 applies to for-profit organizations receiving grants or loans, and all RUS telecommunications and electric borrowers receiving cost of money loans.

(c) For grant recipients the audit requirements only apply to the year(s) in which grant funds are expended. For DLT borrowers the audit requirements apply until the loan is repaid.

§ 1703.129 Repayment of loans.

The term of cost of money loans will be based on the economic useful life of the facilities to be financed, not to exceed 10 years. If the recipient requests, a one year deferment of principal will be included. In special hardship cases, which the recipient must justify, RUS may approve a two year deferment of principal. Interest on the loan will be due and payable during the principal deferral period. RUS will establish uniform debt service payments based on the total amortization period.

§§ 1703.130–1703.134 [Reserved]

§ 1703.135 Grant and loan administration.

(a) RUS will review recipients as necessary to determine whether funds were expended for approved purposes. The recipient is responsible for ensuring that the project complies with all applicable regulations, and that the financial assistance is expended only for approved purposes. The recipient is responsible for ensuring that disbursements and expenditures of funds are properly supported by invoices, contracts, bills of sale, canceled checks, or other appropriate forms of evidence, and that such supporting material is provided to RUS, upon request, and is otherwise made available, at the recipient's premises, for review by the RUS representatives, the recipient's certified public accountant, the office of Inspector General, U.S. Department of Agriculture, the General Accounting Office and any other officials conducting an audit of the recipient's financial statements or records, and program performance for the financial assistance awarded under this subpart. The recipient will be required to permit RUS to inspect and copy any records and documents that pertain to the project.

(b) Grants provided under this program will be administered under, and are subject to 7 CFR parts 3016 through 3019 or their successor, as appropriate. 7 CFR parts 3016 and 3019 subject grantees to a number of requirements which cover, among other

things, financial reporting, accounting records, budget controls, record retention and audits, bonding and insurance, cash depositories for grant funds, grant related income, use and disposition of real property and equipment purchased with grant funds, procurement standards, allowable costs for grant related activities, and grant close-out procedures.

§ 1703.136 Changes in project objectives or scope.

The recipient will obtain prior approval for any material change to the scope or objectives of the approved project, including changes to the scope of work or budget. Failure to obtain prior approval of changes may result in suspension or termination of funds.

§ 1703.137 Grant and loan termination provisions.

(a) *Termination for cause.* RUS may terminate any financial assistance in whole, or in part, at any time before the date of completion of funding disbursement, whenever it is determined that the recipient has failed to comply with the conditions of the financial assistance. RUS will promptly notify the recipient in writing of the determination and the reasons for the termination, together with the effective date.

(b) *Termination for convenience.* RUS or the recipient may terminate financial assistance in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with further expenditure of funds. The two parties will agree upon termination conditions, including the effective date, and in the case of partial termination's, the portion to be terminated. The recipient will not incur new obligations for the terminated portion after the effective date, and will cancel as many outstanding obligations as possible. RUS will allow full credit to the applicant for the Federal share of the noncancelable obligations, properly incurred by the recipient prior to termination.

§§ 1703.138–1703.139 [Reserved]

§ 1703.140 Expedited telecommunications loans.

General. RUS will expedite consideration and determination of an application for a loan or a request for advance of funds submitted by an RUS telecommunications borrower that supports the project seeking financial assistance under this subpart. See 7 CFR part 1737 for loans and 7 CFR part 1744 for advances under this section.

Appendix A to Subpart D of Part 1703—Environmental Questionnaire

Note: It is extremely important to respond to all questions completely to ensure expeditious processing of the Distance Learning and Telemedicine application. The information herein is required by Federal law.

Important: Any activity related to the project that may adversely affect the environment or limit the choice of reasonable development alternatives shall not be undertaken prior to the completion of Rural Utilities Service's environmental review process.

Legal Name of Applicant _____
Signature _____
(Type/Sign/Date) _____

The applicant's representative certifies, to the best of his/her knowledge and belief, that the information contained herein is accurate. Any false information may result in disqualification for consideration of the loan or grant or rescission of the loan or grant.

I. Project Description—Detailing construction, including, but not limited to, internal modifications of existing structures, and installation of telecommunications transmission facilities (defined in 7 CFR 1703.102), including satellite uplinks or downlinks, microwave transmission towers, and cabling.

1. Describe the portion of the project, and site locations (including legal ownership of real property), involving internal modifications, or equipment additions to buildings or other structures (e.g., relocating interior walls or adding computer facilities) for each site.

2. Describe the portion of the project, and site locations (including legal ownership or real property), involving construction of transmission facilities, including cabling, microwave towers, satellite dishes; or, disturbance of property of .99 acres or greater for each project site.

3. Describe the nature of the proposed use of the facilities, and whether any hazardous materials, air emissions, wastewater discharge or solid waste will result.

4. State whether or not any project site(s) contain or are near properties listed or eligible for listing in the National Register of Historic Places, and identify any historic properties (The applicant must supply evidence that the State Historic Preservation Officer (SHPO) has cleared development regarding any historical properties).

5. Provide information whether or not any facility(ies) or site(s) are located in a 100-year floodplain. A National Flood Insurance Map should be included reflecting the location of the project site(s).

II. For projects which involve construction of transmission facilities, including cabling, microwave towers, satellite dishes, or physical disturbance of real property of .99 acres or greater, the following information must be submitted (7 CFR 1703.109(i)(3)).

1. A map (preferably a U.S. Geological Survey map) of the area for each site affected by construction (include as an attachment).

2. A description of the amount of property to be cleared, excavated, fenced or otherwise disturbed by the project and a description of the current land use and zoning and any vegetation for each project site affected by construction.

3. A description of buildings or other structures (i.e., transmission facilities), including dimensions, to be constructed or modified.

4. A description of the presence of wetlands or existing agricultural operations and threatened or endangered species or critical habitats on or near the project site(s) affected by construction.

5. Describe any actions taken to mitigate any environmental impacts resulting from the proposed project (use attachment if necessary).

Note: The applicant may submit a copy of any environmental review, study, assessment, report or other document that has been prepared in connection with obtaining permits, approvals or other financing for the proposed project from State, local or other Federal bodies. Such material, to the extent relevant, may be used to meet the requirements herein.

Dated: June 9, 1997.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 97-15536 Filed 6-12-97; 8:45 am]

BILLING CODE 3410-15-P